

Senate Study Bill 3088

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
TRANSPORTATION BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to regulation of commercial motor vehicle
2 operators by the state department of transportation and
3 providing penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 5462DP 82
6 dea/nh/8

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1 1 Section 1. Section 321.1, subsection 11, Code 2007, is
2 amended by adding the following new paragraph:
3 NEW PARAGRAPH. f. "Employer" means any person, including
4 the United States, a state, the District of Columbia, or a
5 political subdivision of a state, who owns or leases a
6 commercial motor vehicle or assigns an employee to operate
7 such a vehicle.

1 8 Sec. 2. Section 321.1, subsection 11, paragraphs f, g, and
1 9 h, Code 2007, are amended to read as follows:

1 10 ~~f. g.~~ "Foreign jurisdiction" means a jurisdiction outside
1 11 the fifty United States, the District of Columbia, and Canada.

1 12 ~~g. h.~~ "Nonresident commercial driver's license" means a
1 13 commercial driver's license issued to a person who is not a
1 14 resident of the United States or Canada.

1 15 ~~h. i.~~ "Tank vehicle" means a commercial motor vehicle that
1 16 is designed to transport any liquid or gaseous materials

~~1 17 within a tank having a rated capacity of one thousand one or
1 18 more gallons that is either permanently or temporarily~~

~~1 19 attached to the vehicle or chassis. For purposes of this
1 20 paragraph, "tank" does not include a portable tank with a~~

~~1 21 rated capacity of less than one thousand gallons or a
1 22 permanent tank with a rated capacity of one hundred nineteen~~

~~1 23 gallons or less.~~

1 24 Sec. 3. Section 321.1, subsection 15, Code 2007, is
1 25 amended to read as follows:

1 26 15. "Conviction" means a final conviction, a final
1 27 administrative ruling or determination, or an unvacated

1 28 forfeiture of bail or collateral deposited to secure a
1 29 person's appearance in court.

1 30 Sec. 4. Section 321.1, subsection 42, paragraph a, Code
1 31 2007, is amended to read as follows:

1 32 a. "Motor vehicle" means a vehicle which is
1 33 self-propelled, ~~but not including vehicles known as trackless~~

~~1 34 trolleys which are propelled by electric power obtained from
1 35 overhead trolley wires and are not operated upon rails.~~

2 1 Sec. 5. Section 321.208, subsection 1, paragraph d, Code
2 2 2007, is amended to read as follows:

2 3 d. Operating a commercial motor vehicle involved in a
2 4 fatal accident and being convicted of ~~a moving traffic~~

~~2 5 violation that contributed to the fatality, or manslaughter or
2 6 vehicular homicide.~~

2 7 Sec. 6. Section 321.208, subsection 6, Code 2007, is
2 8 amended to read as follows:

2 9 6. A person is disqualified from operating a commercial
2 10 motor vehicle if the person receives convictions for

2 11 committing within any three-year period two or more of the
2 12 following offenses while operating a commercial motor vehicle

2 13 or while operating a noncommercial motor vehicle and holding a
2 14 commercial driver's license if the convictions result in the

2 15 revocation, cancellation, or suspension of the person's
2 16 commercial driver's license or noncommercial motor vehicle

2 17 driving privileges:

2 18 a. Operating a commercial motor vehicle upon a highway

2 19 when not issued a commercial driver's license.
2 20 b. Operating a commercial motor vehicle upon a highway
2 21 when not issued the proper class of commercial driver's
2 22 license or endorsements for the specific vehicle group being
2 23 operated or for the passengers or type of cargo being
2 24 transported.
2 25 c. Operating a commercial motor vehicle upon a highway
2 26 without immediate possession of a driver's license valid for
2 27 the vehicle operated.
2 28 d. Speeding fifteen miles per hour or more over the legal
2 29 speed limit.

2 30 e. Reckless driving.
2 31 f. Any violation of the traffic laws, except a parking
2 32 violation or a vehicle weight violation, which arises in
2 33 connection with a fatal traffic accident.
2 34 g. Following another motor vehicle too closely.
2 35 h. Improper lane changes in violation of section 321.306.

3 1 Sec. 7. Section 321.208, subsection 7, Code 2007, is
3 2 amended by striking the subsection.

3 3 Sec. 8. Section 321.208, subsection 8, Code 2007, is
3 4 amended to read as follows:

3 5 8. The period of disqualification under subsections
3 6 subsection 6 and 7 shall be sixty days for two offenses within
3 7 any three-year period and one hundred twenty days for three
3 8 offenses within any three-year period. Multiple periods of
3 9 disqualification shall be consecutive.

3 10 Sec. 9. Section 321.208, subsection 10, paragraph a, Code
3 11 2007, is amended to read as follows:

3 12 a. For ninety days no less than one hundred eighty days
3 13 and no more than one year upon conviction for the first

3 14 violation of an out-of-service order; for one year, no less
3 15 than two and not more than five years upon conviction for a
3 16 second violation of an out-of-service order in separate
3 17 incidents within a ten-year period; and for not less than
3 18 three and not more than five years upon conviction for a third
3 19 or subsequent violation of an out-of-service order in separate
3 20 incidents within a ten-year period.

3 21 Sec. 10. Section 321.208A, Code 2007, is amended to read
3 22 as follows:

3 23 321.208A OPERATION IN VIOLATION OF OUT-OF-SERVICE ORDER ==
3 24 ~~PENALTY PENALTIES.~~

3 25 1. A person required to hold a commercial driver's license
3 26 to operate a commercial motor vehicle shall not operate a
3 27 commercial motor vehicle on the highways of this state in
3 28 violation of an out-of-service order issued by a peace officer
3 29 for a violation of the out-of-service rules adopted by the
3 30 department. A driver who violates an out-of service order
3 31 shall be subject to a fine of not less than two thousand five
3 32 hundred dollars upon conviction for the first violation of an
3 33 out-of-service order and not less than five thousand dollars
3 34 for a second or subsequent violation of an out-of-service
3 35 order in separate incidents within a ten-year period.

4 1 2. An employer shall not knowingly allow, require, permit,
4 2 or authorize an employee to drive a commercial motor vehicle
4 3 in violation of such an out-of-service order. A person who
4 4 violates this section shall be subject to a scheduled fine of
4 5 one hundred dollars under section 805.8A, subsection 13,
4 6 paragraph "c". An employer who violates this subsection shall
4 7 be subject to a fine of not less than two thousand seven
4 8 hundred fifty dollars and not more than twenty-five thousand
4 9 dollars.

4 10 Sec. 11. NEW SECTION. 321.343A EMPLOYER VIOLATIONS ==
4 11 PENALTY.

4 12 An employer shall not knowingly allow, require, permit, or
4 13 authorize a driver to operate a commercial motor vehicle in
4 14 violation of section 321.341 or 321.343 or any other federal
4 15 or local law or regulation pertaining to railroad grade
4 16 crossings. An employer who violates this section shall be
4 17 subject to a fine of not more than ten thousand dollars.

4 18 Sec. 12. Section 321.344A, subsection 2, Code 2007, is
4 19 amended to read as follows:

4 20 2. A peace officer may initiate an investigation not more
4 21 than seven calendar days after receiving a report of a
4 22 violation pursuant to this section. The peace officer may
4 23 request that the owner of the vehicle supply information
4 24 identifying the driver of the vehicle in accordance with
4 25 section 321.484, or in the case of a commercial motor vehicle,
4 26 the peace officer may request that the employer of the driver
4 27 provide information identifying the driver of the vehicle.

4 28 a. If from the investigation, the peace officer is able to
4 29 identify the driver of the vehicle and has reasonable cause to

4 30 believe a violation has occurred, the peace officer shall
4 31 prepare a uniform traffic citation for the violation and shall
4 32 serve it personally or by certified mail on the driver of the
4 33 vehicle.

4 34 b. If, from the investigation, the peace officer has
4 35 reasonable cause to believe that a violation occurred but is
5 1 unable to identify the driver, the peace officer shall serve a
5 2 uniform traffic citation for the violation on the owner of the
5 3 motor vehicle or, in the case of a commercial motor vehicle,
5 4 on the employer of the driver. Notwithstanding section

5 5 321.484, in a proceeding where the peace officer who conducted
5 6 the investigation was not able to identify the driver of the
5 7 motor vehicle, proof that the motor vehicle described in the
5 8 uniform traffic citation was used to commit the violation of
5 9 section 321.341, 321.342, 321.343, or 321.344, together with
5 10 proof that the defendant named in the citation was the owner
5 11 of the motor vehicle or, in the case of a commercial motor
5 12 vehicle, the employer of the driver, at the time the violation

5 13 occurred, constitutes a permissible inference that the owner
5 14 or employer was the driver person who committed the violation.

5 15 c. For purposes of this subsection, "owner" means a person
5 16 who holds the legal title to a motor vehicle; however, if the
5 17 motor vehicle is the subject of a security agreement with a
5 18 right of possession in the debtor, the debtor shall be deemed
5 19 the owner for purposes of this subsection, or if the motor
5 20 vehicle is leased as defined in section 321.493, the lessee
5 21 shall be deemed the owner for purposes of this subsection.

5 22 Sec. 13. Section 805.8A, subsection 13, paragraph c, Code
5 23 2007, is amended to read as follows:

5 24 c. For violations under sections ~~321.208A~~, 321.364,
5 25 321.450, 321.460, and 452A.52, the scheduled fine is one
5 26 hundred dollars.

5 27 EXPLANATION

5 28 This bill contains provisions relating to commercial motor
5 29 vehicle regulation by the department of transportation that
5 30 conform Iowa law more closely to federal law.

5 31 For purposes of administering and enforcing commercial
5 32 driver's license provisions, the bill defines the term
5 33 "employer" to mean any person who owns or leases a commercial
5 34 motor vehicle or assigns employees to operate such a vehicle,
5 35 and the bill amends the definition of "tank vehicle" to
6 1 exclude portable tanks with a rated capacity of less than
6 2 1,000 gallons and permanent tanks with a rated capacity of 119
6 3 gallons or less. The definition of "conviction", which
6 4 applies for purposes of motor vehicle regulation generally, is
6 5 amended to include a final administrative ruling or
6 6 determination, and the definition of "motor vehicle" is
6 7 amended to eliminate an obsolete reference to trackless
6 8 trolleys.

6 9 The bill combines language relating to disqualification
6 10 from operating a commercial motor vehicle if the person
6 11 receives convictions within a three-year period for two or
6 12 more offenses committed while operating either a commercial
6 13 motor vehicle or a noncommercial motor vehicle and holding a
6 14 commercial motor driver's license. The new language provides
6 15 that multiple periods of disqualification shall be applied
6 16 consecutively.

6 17 The bill imposes civil penalties in place of a \$100
6 18 scheduled fine for violations of commercial motor vehicle
6 19 out-of-service orders. A driver who violates an
6 20 out-of-service order is subject to a fine of not less than
6 21 \$2,500 upon conviction for a first violation and not less than
6 22 \$5,000 upon conviction for a second or subsequent violation
6 23 within a 10-year period. An employer who knowingly allows,
6 24 requires, permits, or authorizes an employee to drive a
6 25 commercial motor vehicle in violation of an out-of-service
6 26 order is subject to a fine of not less than \$2,750 and not
6 27 more than \$25,000.

6 28 The bill provides that employers shall not knowingly allow,
6 29 require, permit, or authorize a commercial motor vehicle
6 30 operator to violate provisions relating to railroad-highway
6 31 grade crossings. The penalty imposed on employers for a
6 32 violation is a fine of not more than \$10,000.

6 33 The bill amends an existing provision relating to
6 34 violations committed by drivers for failure to stop at
6 35 railroad crossings. Under current law, if a peace officer is
7 1 unable to identify the driver of such a vehicle, a citation
7 2 may be issued to the owner of the vehicle. The bill expands
7 3 that provision to allow the citation to be issued to the
7 4 employer of the driver if the motor vehicle involved is a
7 5 commercial motor vehicle.

7 6 LSB 5462DP 82
7 7 dea/nh/8.1